

§ 143-215.104D. (Expires January 1, 2022 – see notes) Powers of the Commission.

(a) Administrative Functions. – The Commission may delegate any or all of the powers enumerated in this subsection to the Department. The Commission shall:

- (1) Accept petitions for certification and petitions to enter into dry-cleaning solvent assessment agreements or remediation agreements under this Part.
- (2) Prioritize certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites for the initiation of assessment or remediation activities.
- (3) Repealed by Session Laws 2007-530, s. 3, effective August 31, 2007.
- (4) Schedule funding of assessment and remediation activities.
- (5) Determine whether assessment or remediation is necessary at a site at which dry-cleaning solvent contamination has occurred.
- (5a) Enter into contracts with private contractors for assessment and remediation activities at certified dry-cleaning facilities, certified wholesale distribution facilities, and certified abandoned dry-cleaning facility sites.
- (6) Determine that all necessary assessment and remediation has been completed at a contamination site.
- (7) Make payments from the Fund for the costs of assessment and remediation.

(b) Rule making. – The Commission shall adopt rules as are necessary to implement the provisions of this Part. Rules adopted by the Commission shall be consistent with and shall not duplicate, but may incorporate by reference, the rules adopted by the Commission for Health Services pursuant to Article 9 of Chapter 130A of the General Statutes. The Commission shall not delegate the rule-making powers provided in this subsection.

- (1) The Commission may adopt rules governing:
 - a. Repealed by Session Laws 2007-530, s. 3, effective August 31, 2007.
 - b. The certification and decertification of facilities or abandoned sites.
 - c. The prioritization of facilities or abandoned sites and scheduling of funding for assessment and remediation activities. These rules shall provide for:
 1. Consideration of the degree of harm or risk to public health and the environment.
 2. Consideration of the order in which certification is issued for the facility or abandoned site.
 3. Consideration of the relative cost of assessment and remediation activities.
 4. Use of the Fund so as to maximize the reduction of harm or risk posed by certified facilities, certified abandoned sites, uncertified facilities and uncertified sites.
 - d. The disbursement of revenue from the Fund for payment of approved assessment or remediation costs.
 - e. The determination whether assessment or remediation is necessary at a contamination site.
 - f. The determination that all necessary assessment and remediation has been completed at a contamination site.
 - g. The terms and conditions of dry-cleaning solvent assessment agreements and remediation agreements.
 - h. The determination whether additional assessment or remediation is necessary at a contamination site previously closed under this Part.

- (2) **(See editor's note)** The Commission may adopt rules establishing minimum management practices for handling of dry-cleaning solvent at dry-cleaning facilities and wholesale distribution facilities. The rules may:
- a. Require that all perchloroethylene dry-cleaning machines installed at a dry-cleaning facility after the effective date of the rule or temporary rule meet air emission standards that equal or exceed the standards that apply to comparable dry-to-dry perchloroethylene dry-cleaning machines with integral refrigerated condensation.
 - b. Prohibit the discharge of dry-cleaning solvents or water that contains dry-cleaning solvents into sanitary sewers, septic systems, storm sewers, or waters of the State.
 - c. Require spill containment structures around dry-cleaning machines, filters, stills, vapor adsorbers, solvent storage areas, and waste solvent storage areas.
 - d. Require floor sealants for cleaning room areas if the Commission finds the sealants to be effective.
 - e. Require, by 1 January 2002, the use of improved solvent transfer systems to prevent releases at the time of delivery of solvents to a dry-cleaning facility.
 - f. Require any other solvent-handling practices the Commission may find necessary and appropriate to minimize the risk of releases at dry-cleaning facilities or wholesale distribution facilities.
- (3) The Commission shall adopt rules establishing a risk-based approach applicable to the assessment, prioritization, and remediation of dry-cleaning solvent contamination resulting from releases at facilities or abandoned sites certified pursuant to G.S. 143-215.104G. The rules shall address, at a minimum:
- a. Criteria and methods for determining remediation requirements, including the level of remediation necessary to assure adequate protection of public health and the environment.
 - b. The circumstances under which information specific to the dry-cleaning solvent contamination site should be considered and required.
 - c. The circumstances under which restrictions on the future use of any remediated dry-cleaning solvent contamination site should be considered and required as a means of achieving and maintaining an adequate level of protection for public health and the environment.
 - d. Strategies for the assessment and remediation of dry-cleaning solvent contamination, including presumptive remedial responses sufficient to provide an adequate level of protection as described under sub-subdivision a. of this subdivision.

(c) All rules adopted by the Commission shall be applicable to all dry-cleaning facilities, wholesale distribution facilities, and abandoned dry-cleaning facilities in the State and shall, to the maximum extent practicable, be cost-effective and technically feasible while protecting public health and the environment from the release of dry-cleaning solvents.

(d) Unless otherwise provided in this Part, the Commission may delegate any of its rights, duties, and responsibilities under this Part to the Department. (1997-392, s. 1; 2000-19, s. 6; 2007-182, s. 2; 2007-530, s. 3.)